In the High Court of Punjab and Haryana, Chandigarh.

CWP No. 17094 of 2002

Date of Decision: 5.3.2007

Kasturi Lal Kashyap

....Petitioner

Versus

State of Punjab and others.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice S.D. Anand.

Present: Mr. R.S. Manhas, Advocate
for the petitioner.

...

J.S. Khehar, J.

The petitioner claims to have been inducted into the service of the Improvement Trust, Pathankot, as a Surveyor. Since the petitioner possessed the qualification of Diploma in Surveyor, he claims to have been rightfully appointed as such. Onward promotion from the post of Surveyor is to the post of Overseer. The petitioner claims, that he was promoted as Overseer on the basis of a resolution passed by the Improvement Trust, Pathankot, on 23.5.1974.

The post of Overseer was allegedly redesignated as Sectional Officer under the Punjab Trust Services/Recruitment and Conditions of Service Rules, 1978. The petitioner, therefore claims, that on account of his having held the post of Overseer, he came to be redesignated as Sectional

Officer.

The grievance raised by the petitioner in the instant writ petition pertains to the issue of seniority. The seniority of Sectional Officers was allegedly circulated by the respondents through a letter dated 30.8.1999 and objections were invited thereon. The petitioner alleges, that the position assigned to him in the seniority list was incorrect. This assertion is being made by the petitioner on account of the fact, that the seniority of the petitioner in the cadre of Sectional Officers was determined by taking his date of appointment as Sectional Officer as 13.2.1981, whereas he is deemed to have been appointed as Sectional Officer with effect from the date he was promoted as Overseer i.e. with effect from 23.5.1974.

According to the averments contained in the pleadings, the petitioner is stated to have made a representation dated 30.9.1999, challenging the correctness of the seniority list, and two other representations to the same effect, soon thereafter on 14.11.1999 and 23.2.2000. It is also the case of the petitioner, that he made numerous representations thereafter, but no corrective steps were taken by the authorities.

It is also the case of the petitioner, that a number of persons junior to him came to be promoted from the post of Sectional Officer to the next higher post of Assistant Trust Engineer without considering the claim of the petitioner. In fact, it is the vehement contention of the learned counsel for the petitioner, that the aforesaid promotions were made against reserve points meant for Backward Class candidates, by promoting general category candidates, whilst the claim of the petitioner who actually

belonged to the Backward Class category and was eligible for promotion, was not considered.

In the instant writ petition, the petitioner has not impleaded the persons junior to him, who were allegedly superseded the petitioner for promotion to the post of Assistant Trust Engineer. The petitioner probably did not implead them as party – respondents on account of the fact, that he stood retired from service as far back as on 31.10.2000, on attaining the age of superannuation. In the peculiar facts and circumstances of this case, we are of the view, that the petitioner has misused the jurisdiction of this Court. He retired on attaining the age of superannuation as far back as on 31.10.2000. The instant writ petition was filed in the year 2002. On the first date of hearing i.e. on 24.10.2002, learned counsel for the petitioner sought an adjournment to enable him to place additional material on the record to show, that the petitioner was entitled to the benefits of service as have been claimed in the instant writ petition. The instant writ petition came to be adjourned with a direction, that the same would be listed only after the additional material was placed on the record of the case by the petitioner.

On 16.1.2007, almost five years after the instant writ petition had remained pending, the petitioner still did not place any material on the record of the case. He, however, stated that needful could not be done on account of the fact, that the petitioner had suffered a stroke of paralysis. The proceedings of the instant writ petition were deferred to enable learned counsel for the petitioner to file an affidavit affirming the aforesaid factual position. An affidavit dated 17.2.2007 was, accordingly, filed. The same does not disclose the date when the petitioner suffered a paralytic stroke. Be

that as it may, when the matter came up for further consideration on 19.2.2007, the petitioner was granted an adjournment yet again to comply with the order dated 24.10.2002. Despite the aforesaid opportunity afforded to the petitioner, he did not place any further material on the record of the case. In the totality of the circumstances noticed hereinabove, it is clear, that there is nothing on the record of the instant writ petition to authenticate the claim on the issue of seniority, as well as, for promotion as has been projected by the petitioner. Both these claims were raised by the petitioner for the first time well after the date of his superannuation from service. Despite the fact, that the instant writ petition has been pending for more than five years, the instant writ petition has been awaiting appropriate material so that the issues canvassed by the petitioner can be considered and disposed of on merits. It is not possible for us to keep the instant writ petition pending any longer. For the lapses committed by the petitioner, the instant writ petition is also liable to be dismissed with costs. The same is, accordingly, dismissed with costs, which are quantified at Rs.5000/-. The aforesaid costs shall be deposited by the petitioner with the Secretary, Legal Services Authority, Punjab, within one month from the date of receipt of a certified copy of this order.

Disposed of accordingly.

(J.S. Khehar)
Judge.

(S.D. Anand)
Judge.

5.3.2007
sk.